STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID D. HINES,

Defendant-Appellant.

UNPUBLISHED
February 21, 2003

No. 238188
Wayne Circuit Court
LC No. 01-006510-01

Before: Kelly, P.J., and White and Hoekstra, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of first-degree home invasion, MCL 750.110a(2), entered after a bench trial. He was sentenced to six to twenty years. We affirm.

Defendant's sole challenge on appeal is addressed to the sufficiency of the evidence. When reviewing a challenge to the sufficiency of the evidence, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the trial court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the trial court was aware of the issues in the case and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), aff'd by equal division 462 Mich 71; 611 NW2d 783 (2000). A finding is considered to be clearly erroneous if, after a review of the entire record, we are left with the firm and definite conviction that a mistake was made. *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991).

A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the dwelling, or a person who breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony, larceny, or assault, is guilty of home invasion in the first

degree if, at any time while the person is entering, present in, or exiting the dwelling, either the person is armed with a dangerous weapon or another person is lawfully present in the dwelling. MCL 750.110a(2). The offense of home invasion includes but is not limited to conduct prohibited as the former offense of breaking and entering a dwelling with intent to commit a felony or a larceny. *People v Warren*, 228 Mich App 336, 348; 578 NW2d 692 (1998), rev'd in part on other grounds 462 Mich 415; 615 NW2d 691 (2000).

Any person who, without breaking, enters any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, railroad car, structure used or kept for public or private use, or any private apartment with intent to commit a felony or larceny therein, is guilty of a felony. MCL 750.111.

Defendant argues that the evidence produced at trial was insufficient to support his conviction of first-degree home invasion. He contends that at most, the evidence supported a finding that he was guilty of the offense of entering without permission. MCL 750.111. We disagree and affirm defendant's conviction.

The evidence showed that defendant worked for Earlene and Earnest Morris as a handyman. Defendant went to the Morris residence and requested an advance on his wages. Earnest Morris gave defendant $10 as an advance. Approximately one hour later, defendant returned to the Morris home and stood on the porch screaming for Earnest Morris. Earlene Morris testified that after defendant came to the home a second time and screamed on the porch, he went to the garage, retrieved a hoe, and returned to the front door. She testified that she heard glass breaking, and then saw defendant standing inside the house. She stated that defendant had no permission to enter the home, and that the window beside the front door was not broken before defendant came to the home. Moreover, defendant admitted that he broke and entered the home. The trial court's finding that defendant broke and entered the Morris residence was not clearly erroneous. MCR 2.613(C); *Hermiz, supra*. The evidence did not support a conviction of entry (without breaking) without permission.

The offense of first-degree home invasion is a specific intent crime. Specific intent may be express, or it may be inferred from the facts and circumstances. *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983). The circumstantial evidence needed to establish intent to commit a larceny is minimal. *People v Noel*, 123 Mich App 478, 484; 332 NW2d 578 (1983). The evidence that defendant returned to the Morris residence very soon after borrowing money, broke and entered the residence after receiving no response to his screams, fled when Earlene Morris discovered him and telephoned the police, and lied about having been in the area, supported an inference that defendant intended to commit a larceny when he broke and entered the residence. *Beaudin*, *supra*; *Noel*, *supra*. The trial court's findings of fact, while not extensive, indicate that the court was aware of the issues in the case and correctly applied the law. *Smith*, *supra*. The evidence, viewed in a light most favorable to the prosecution, supported defendant's conviction. MCL 750.110a(2); *Petrella*, *supra*.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Helene N. White
/s/ Joel P. Hoekstra